



## **Texas Department of Insurance**

### **Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

518-804-4000 telephone • 512-804-4811 fax • [www.tdi.texas.gov](http://www.tdi.texas.gov)

## **MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

### **GENERAL INFORMATION**

#### **Requestor Name and Address**

UNITED SURGERY CENTER SOUTHEAST  
PO BOX 201620  
HOUSTON TX 77216

#### **Respondent Name**

LIBERTY INSURANCE CORP

#### **Carrier's Austin Representative Box**

Box Number 01

#### **MFDR Tracking Number**

M4-11-2819-01

### **REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "According to the MEDICARE CCI VERSION 17.0 EDIT procedures 29875 and 29881 are billable and can be paid separately as long as appropriate modifier is used. Which we have already added a 59 modifier to 29875RT on our last appeal."

**Amount in Dispute:** \$1374.63

### **RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "CPT 29875-RT-59 was denied as this separate independent procedure is considered an integral part of the total services performed and does not warrant a separate charge. (U008). The Modifier 59 is not supported as this is a separate procedure code and per Medicare CCI. Per the Medicare Correct Coding Guideline: 'If the code descriptor of a HCPCS/CPT code includes the phrase, 'separate procedure', the procedure is subject to CCI edits based on this designation. CMS does not allow separate reporting of a procedure designated as a 'separate procedure' when it is performed at the same patient encounter as another procedure in an anatomically related area through the same skin incision, orifice, or surgical approach.'"

**Response Submitted by:** Liberty Mutual Insurance Group, 2875 Browns Bridge Road, Gainesville, GA 30504

### **SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
August 26, 2010	ASC Services for Code 29875-RT-59	\$1374.63	\$1363.66

### **FINDINGS AND DECISION**

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

## Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §134.402, titled *Ambulatory Surgical Center Fee Guideline*, effective August 31, 2008, sets out the reimbursement guidelines for ambulatory surgical care services.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits dated February 18, 2011

- U008-This separate independent procedure is considered an integral part of the total services performed and does not warrant a separate charge.

## Issues

1. Did the requestor support position that the disputed ASC services for code 29875-RT-59 are not included in 29881-RT? Is the requestor entitled to reimbursement?

## Findings

1. 28 Texas Administrative Code §134.402(d) states “ For coding, billing, and reporting, of facility services covered in this rule, Texas workers' compensation system participants shall apply the Medicare payment policies in effect on the date a service is provided with any additions or exceptions specified in this section.”

The respondent denied reimbursement for HCPCS code 29875-RT-59 based upon EOB denial reason code “U008-This separate independent procedure is considered an integral part of the total services performed and does not warrant a separate charge.”

On the disputed date of service the requestor billed HCPCS code 29875-59-RT, 29881-RT and 99199.

HCPCS code 29875 is defined as “Arthroscopy, knee, surgical; synovectomy, limited (eg, plica or shelf resection) (separate procedure).”

Per NCCI edits ,HCPCS code 29875 is a component of HCPCS code 29881; however, a modifier is allowed when appropriate. The requestor utilized modifier “59” to differentiate it as a separate service.

Modifier 59’s descriptor is “**Distinct Procedural Service:** Under certain circumstances, it may be necessary to indicate that a procedure or service was distinct or independent from other non-Evaluation and Management (E/M) services performed on the same day. Modifier 59 is used to identify procedures or services other than E/M services that are not normally reported together but are appropriate under the circumstances.

Documentation must support a different session, different procedure or surgery, different site or organ system, separate incision or excision, separate lesion or separate injury (or area of injury in extensive injuries) not ordinarily encountered or performed on the same day by the same individual. However, when another already established modifier is appropriate, it should be used rather than modifier 59. Only if no more descriptive modifier is available and the use of modifier 59 best explains the circumstances should modifier 59 be used.”

The August 26, 2010 Operative report indicates that the claimant underwent “Partial medial meniscectomy; Chondroplasty of patellofemoral joint and medial femoral condyle; and Partial synovectomy.”

Trailblazers Health Enterprise, LLC’s Ambulatory Surgical Care Manual reference modifier 59 states that “The medical record must reflect that the modifier is being used appropriately to describe separate services. The documentation should be maintained in the patient’s medical record and made available to Medicare upon request.”

The Operative report indicates “Patellofemoral joint after reception of the synovial plica revealed grade II and grade III chondromalacia on the undersurface of the patella and femoral trochlea...The medial compartments showed a tear of the posterior horn of the medial meniscus...” The operative report supports the use of modifier-59 to delineate that the procedures were performed in separate knee compartments; therefore, reimbursement is recommended.

2. 28 Texas Administrative Code §134.402(f)(1)(A) states “The reimbursement calculation used for establishing the MAR shall be the Medicare ASC reimbursement amount determined by applying the most recently adopted and effective Medicare Payment System Policies for Services Furnished in Ambulatory Surgical Centers and Outpatient Prospective Payment System reimbursement formula and factors as published annually in the *Federal Register*. Reimbursement shall be based on the fully implemented payment amount as in ADDENDUM AA, ASC COVERED SURGICAL PROCEDURES FOR CY 2008, published in the November 27, 2007 publication of the *Federal Register*, or its successor. The following minimal modifications apply: (1) Reimbursement for non-device intensive procedures shall be: (A) The Medicare ASC facility reimbursement amount multiplied by 235 percent.”

28 Texas Administrative Code §134.402(f) reimbursement for non-device intensive procedure for HCPCS code 29875 is:

The Medicare ASC reimbursement rate is found in the Addendum AA ASC Covered Surgical Procedures.

The ASC fully implemented relative payment weight for CY 2010 = 27.9391

This number is multiplied by the 2010 Medicare ASC conversion factor of 27.9391 X \$41.873 = \$1,169.89.

The Medicare fully implemented ASC reimbursement rate is divided by 2 = \$584.94 (\$1169.89/2).

This number X City Conversion Factor/CMS Wage Index for Houston, Texas is \$584.94 X 0.9841 = \$575.63.

The geographical adjusted ASC rate is obtained by adding half of the national reimbursement and wage adjusted reimbursement \$584.94 + \$575.63 = \$1,160.57.

Multiply the geographical adjusted ASC reimbursement by the DWC payment adjustment \$1,160.57 X 235% = \$2727.33.

HCPCS code 29875 is subject to multiple procedure rule discounting; therefore, \$2727.33 X 50% = \$1363.66.

The MAR for HCPCS code 29875 is \$1363.66. The insurance carrier paid \$0.00. As a result, the amount recommended for additional reimbursement is \$1363.66.

### **Conclusion**

The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution, and the thorough review and consideration of that evidence. After thorough review and consideration of all the evidence presented by the parties to this dispute, it is determined that the submitted documentation supports additional reimbursement sought by the requestor. The Division concludes that the requestor supported its position that additional reimbursement is due. As a result, the amount ordered is \$1363.66.

### ***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$1363.66 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

### **Authorized Signature**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

4/11/2012  
\_\_\_\_\_  
Date

### ***YOUR RIGHT TO REQUEST AN APPEAL***

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party**.

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**